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25 August 1958

MEMORANDUM FOR: Director of Personnel

SUBJECT: Disposition of Gifts From Foreign Governments

1. We have received your memorandum of 28 July 1958 regarding our views on the disposition of gifts presented to Agency employees by representatives of foreign governments. You pose two specific questions, as follows:

"a. If a determination is made that the individual may not retain the gift, may there be a provision for returning it to him when he leaves Government service?

"b. If a determination is made that the gift will be retained by the Agency, either indefinitely or pending the recipient's retirement or separation, may the gift be donated to a charitable organization, such as the Public Service Aid Society, for sale? (If it were intended that the gift ultimately be returned to the recipient, such sale would be made only upon his agreement.)"

2. Article 1, Section 9, Clause 8, of the Federal Constitution reads as follows:

"No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or Foreign State."

Title 5, Section 115, of the U. S. Code reads:

"Any present, decoration, or other thing which shall be conferred or presented by any foreign government to any officer of the United States, civil, naval, or military, shall be tendered through the Department of State, and not to the individual in person, but such present, decoration, or other thing shall not be delivered by the Department of State unless so authorized by act of Congress."

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Section 115(a) of that title reads as follows:

"The secretary of State is directed to furnish to the 75th Congress and to each alternate Congress thereafter a list of those retired officers or employees of the United States for whom the Department of State under the provisions of Section 115 of this Title, is holding decorations, orders, medals or presents tendered them by Foreign Governments."

The President, on April 13, 1954, directed that after that date no requests should be submitted for the consent of Congress to accept such gifts for anyone except retired personnel.

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4. To reply specifically to your question a., above, the gift may be turned over to the employee only upon express authority of the Congress. We would, of course, have obvious security obstacles to overcome before seeking such legislation. Question b must be answered in the negative. There is no authority for the Agency to dispose of the gifts; they are not Federal property.

5. The impasse created by this situation--in the State Department it has become a genuine warehousing problem--together with a policy disagreement within the Executive Branch, in which the Congress has shown considerable interest, has led to the formation of the Interdepartmental Committee on Gifts, of which the General Counsel of this Agency is a member. This committee is to recommend legislation to Congress designed to solve the many problems incident to administrative control over these gifts. Enactment of such legislation is hoped for next session. We recommend deferring any further attempts at solution of this problem until Congress takes action, which action should provide guides for us to follow within the framework of our particular needs.

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THE WHITE HOUSE  
WASHINGTON

April 13, 1954

TO THE HEADS OF EXECUTIVE DEPARTMENTS  
AND ESTABLISHMENTS:

Except as other procedures may be authorized by law, as in the case of decorations which may be authorized for military combat or war-time service, each department and establishment will hereafter be governed by the requirements of the Act of June 27, 1934 (5 U.S.C. 115a) with respect to requesting the consent of Congress for retired personnel to accept gifts, decorations, awards, or any other thing tendered to them by a foreign government. No request shall be submitted hereafter for other than retired personnel.

1. In the month of April, 1954, and one full month before the beginning of the Second Session of each alternate Congress thereafter, each agency will compile and transmit to the Secretary of State a list of its retired personnel for whom the Department of State under the provisions of the Act of January 31, 1881 (5 U.S.C. 115) is holding decorations, orders, medals, or presents tendered them by foreign governments and for the acceptance of which the agency desires to request the consent of the Congress. Supporting documentation will be submitted with the list and will include the name of the intended recipient, the date on which retired, the name of the donor government, the name or title or other identification of the thing to be accepted, and the specific reason for which it was tendered.
2. The Secretary of State will have prepared an omnibus authorizing bill covering the retired personnel listed by departments and will transmit such bill and consolidated list to the Congress.
3. Each department and establishment will be prepared to provide, on behalf of any such retired person, such further information as the appropriate Committees of the Congress may require with respect to any award tendered to such retired personnel.

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4. Before submitting any consolidated list to the Congress, the Secretary of State will review the list in order to ascertain if there is any objection to the acceptance of any award therein proposed from the point of view of the foreign policy of the United States. If there be any such objection, the matter may be presented to the President for his decision.

5. These instructions supersede those of January 6, 1950, with respect to decorations tendered by foreign governments. STATINTL



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